



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 28, 1994

Ms. R. Yvette Clark
General Counsel
Stephen F. Austin State University
P. O. Box 13065, SFA Station
Nacogdoches, Texas 75962-3065

OR94-104

Dear Ms. Clark:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code, formerly V.T.C.S. article 6252-17a.¹ Your request was assigned ID# 24111.

Stephen F. Austin State University ("the university") received a request for all documents pertaining to a settlement reached in the case of *Donald E. Bowen and Daphne Bowen v. Stephen F. Austin State University, et al.*, Cause No. 7947-92-4 in the 145th Judicial District Court of Nacogdoches County, Texas. You assert that the university may withhold the requested information under sections 552.102, 552.103, and 552.107 of the Government Code.

You inform us that no executed settlement document exists and enclose three drafts of the settlement agreement as responsive to the request. Section 552.103(a) excepts from required public disclosure information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

¹The Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the the Government Code at chapter 552. *Id.* § 1, at 599. This codification of the Open Records Act is a nonsubstantive revision. *Id.* § 47.

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

The requested information relates to the settlement negotiation of the pending litigation. The assistant attorney general representing the university in this litigation has determined that the requested information should be withheld from public inspection. We conclude, therefore, that the university may withhold the requested information under section 552.103 of the Government Code.²

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/rho

Ref.: ID# 24111

Enclosures: Submitted documents

cc: Ms. Tonya E. Solis
Staff Writer
The Daily Sentinel
P.O. Drawer 630068
Nacogdoches, Texas 75963
(w/o enclosures)

²While section 552.103 excepts from required public disclosure information relating to settlement negotiations, the exception does not extend so far as to except the final terms of the settlement. Open Records Decision No. 114 (1975). *But see* Gov't Code § 552.107(2) (excepting information which a court order prohibits from disclosure).